

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 916 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
 2. To be referred to the Reporter or not? No
 3. Whether Their Lordships wish to see the fair copy of the judgement? No
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
 5. Whether it is to be circulated to the Civil Judge? No

G S R T C

Versus

CHIMANLAL M DALVADI

Appearance:

MR HARDIK C RAWAL for Petitioner
MR HK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

Date of decision: 09/09/96

ORAL JUDGEMENT (Per N.J.Pandya,J.)

By filing this petition, the petitioner-Gujarat State Road Transport Corporation (GSRTC) has challenged the award given by the Industrial Court, Nadiad in

Reference No.684 of 1983 which was originally numbered as 89 of 1983. By said award dated 23-7-1984, the learned Presiding Officer had accepted the Reference and reinstated the respondent-workman and also passed orders in his favour for payment of backwages.

2. At the time when the petition came up for admission, stay came to be granted only with regard to backwages.

3. As a result, the respondent workman came to be reinstated and in course of time, he having reached the age of superannuation, retired and is no longer in service of the Corporation.

4. Nonetheless, affidavit in reply is filed by the workman from page 29 onwards and categorically it has been reiterated in support of the award that it is a case of no evidence. This would necessarily mean that procedural aspect of inquiry is not challenged, nor is there any challenge to the following of the rules pertaining to the departmental inquiry.

5. The charge against the workman was that, while driving the bus of the Corporation, a small girl was run over by the said bus on Kapadwanj-Nadiad Road. However, when one goes through the award, it is quite clear that except for the Reporting Officer, no one was examined and by way of direct evidence for the negligence attributed to the workman, there was no material whatsoever produced in course of the departmental inquiry on behalf of the Corporation.

6. As if this is not enough, there is a procedure of filing of T-5 form and that was required to be dealt with also by the Departmental Head and thereafter, the opinion of the Committee expressed with regard to the incident was sought to be accepted or rejected by the departmental head.

7. Before the inquiry, this formality was concluded, but it so happened that the Departmental Head, who finally conducted the inquiry and passed the penal order of dismissal, himself happened to be the Officer, who accepted the finding of the Committee while dealing with T-5 form.

8. This might lead to serious prejudice to the workman, but as stated earlier, as its legality is not in question, we do not go into it. Coming back to the finding of the learned Presiding Officer, under the

aforesaid circumstances, it cannot be said that his view is in any way incorrect and the case of the Corporation against the workman being of no evidence, the finding could have been that of reinstatement and backwages alone.

9. That is exactly what the learned Presiding Officer has done.

10. This Court had an occasion to deal with similar question in Special Civil Application No.4746 of 1984 where the Division Bench comprising of Justices R.C.Mankad and P.M.Chauhan, as they were at the relevant time, had categorically held in para 2 of their order, a copy of which is annexed to the affidavit in reply, that to prove charge of negligence framed against the workman, more evidence than the evidence of the Reporting Officer should be produced. We respectfully agree with this line of reasoning. So far as the present petition is concerned, identical facts are involved and hence, we have no hesitation in dismissing the petition.

12. The petition is dismissed with no order as to costs. Backwages, if not paid so far, be paid within 2 months from today.
